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Board of Vocational Nursing
and Psychiatric Technicians

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BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. VN-2008-2495

**ROBERTA LYNN MILDER-SPATZ AKA
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ROBERTA LYNN SPATZ
P.O. Box 575
Los Alamitos, CA 90720**

A C C U S A T I O N

Vocational Nurse License No. VN 134661

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about December 30, 1986, the Board of Vocational Nursing and Psychiatric Technicians (Board) issued Vocational Nurse License Number VN 134661 to Roberta Lynn Milder-Spatz, also known as Roberta Lynn Milder, also known as Roberta Lynn Spatz

(Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein, and will expire on August 31, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

5. Section 2878 of the Code states:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

. . . .

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.

""

6. Section 2878.5 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

""

"(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license."

1 HEALTH & SAFETY CODE PROVISIONS

2 7. Section 11032 of the Health and Safety Code provides, in pertinent part, that the term
3 "restricted dangerous drugs" means controlled substances classified in Schedules III and IV as
4 defined in sections 11056 and 11057 of that code.

5 8. "Benzodiazepines" are classified as depressants, and listed in Health and Safety Code
6 section 11057 as a Schedule IV controlled substance.

7 COST RECOVERY

8 9. Business and Professions Code section 125.3.states, in pertinent part:

9 "(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
10 proceeding before any board within the department or before the Osteopathic Medical Board
11 upon request of the entity bringing the proceedings, the administrative law judge may direct a
12 licentiate found to have committed a violation or violations of the licensing act to pay a sum not
13 to exceed the reasonable costs of the investigation and enforcement of the case."

14 FIRST CAUSE FOR DISCIPLINE

15 (Violation of Board Statutes)

16 10. Respondent is subject to disciplinary action under section 2878(d), in that she
17 violated Board statutes when she tested positive for Benzodiazepines while working as an LVN
18 for Maxim Healthcare Services (MHS) in Orange, California. The circumstances are as follows:

19 11. On or about March 11, 2009, Respondent's employer MHS received a complaint
20 from a patient's family, reporting that some medications may have been missing from their home.
21 MHS had all of their nurses assigned to that patient drug tested. Respondent tested positive for
22 Benzodiazepines, and was terminated on March 20, 2009, from her employment.

23 SECOND CAUSE FOR DISCIPLINE

24 (Use of Controlled Substances)

25 12. Respondent is subject to disciplinary action under section 2878.5(b), in that she used
26 controlled substances in a manner dangerous to herself, as described in paragraphs 10 and 11,
27 above.

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